

REMARKS

Favorable reconsideration and allowance of the present application is respectfully requested.

Claims 1-30 are currently pending in the present application, including independent claims 1, 16, and 23. Independent claim 1, for instance, is directed to a flexible laminate structure comprising a first substrate containing a thermoplastic polymer and a second substrate containing a thermoplastic polymer. The thermoplastic polymer of each substrate is fused to form fused portions and unfused portions located between the fused portions. The unfused portions define elongated pockets that contain discrete regions of particles, the pockets having a length-to-width ratio of greater than about 2. The fused portions define at least one perimeter region and at least one inner region. The inner region is bonded to an extent such that it is capable of delaminating and the perimeter region withstands substantial delamination upon the application of a force.

As an initial matter, the Examiner objected to the drawings for various reasons. It is believed the amendments submitted herewith to the specification overcome these objections. In addition, claims 1 and 9-11 were provisionally rejected under the judicially-created doctrine of obvious-type double patenting as being unpatentable over claim 1 of copending application No. 10/027,787. Without commenting on the propriety of this rejection, Applicants agree to submit a terminal disclaimer at such time that the claims of the present application are deemed to otherwise be allowable.

In the Office Action, independent claims 1, 16, and 23 were also rejected under 35 U.S.C. §103(a) over U.S. Patent No. 4,892,535 to Bjornberg, et al. in view of U.S.

Patent No. 5,411,497 to Tanzer, et al. Bjornberg, et al. is directed to absorbent pads of the type used to form incontinence pads. As shown in Figs. 1-3, for example, a pad 1 includes a liquid-impervious back sheet 3 on which are contained a plurality of spaced bodies 4 of absorbent material. The absorbent material has a high capacity for absorbing liquid, and may be formed from fluff pulp. The bodies 4 are contained in pockets 5 formed in a continuous liquid-pervious cover sheet 7 that overlies the bodies 4 and is directly secured to the back sheet 3 along channels 9. In use, the pad 1 may be placed beneath the incontinent person, whose weight is borne by the filled pockets, leaving open the channels 9. Liquid from the person's body readily penetrates the cover sheet 7 and is absorbed by the bodies 4 of absorbent material. When the bodies 4 are full, the excess liquid passes along the channels 9 to the nearest dry pockets 5, where the liquid is absorbed from the channels 9 through the side walls of the pockets 5.

As correctly noted by the Examiner, Bjornberg, et al. fails to teach certain aspects of independent claims 1, 16, and 23. For example, Bjornberg, et al. fails to disclose fused portions that define at least one perimeter region and at least one inner region, wherein the inner region is bonded to an extent such that it is capable of delaminating upon the application of a force thereto. Nevertheless, Tanzer, et al. was cited in combination with Bjornberg, et al. in an attempt to render obvious claims 1, 16, and 23. However, Applicants respectfully submit that one of ordinary skill in the art would not have found it obvious to combine Bjornberg, et al. and Tanzer, et al. in the manner suggested in the Office Action.

Specifically, the absorbent articles of Tanzer, et al. have an entirely different construction than the absorbent pads of Bjornberg, et al. Bjornberg, et al. is directed to incontinence pads formed by laminating a liquid-impervious back sheet to a liquid pervious cover sheet. Pockets are formed in the cover sheet, while the back sheet remains substantially flat. Bjornberg, et al. emphasizes the importance of this particular pad construction, noting the following:

In short, the materials of the back sheet 3, the absorbent bodies 4 and the cover sheet 7 can all be conventional; it is their arrangement and relationship to each other, as well as the method and apparatus for their assembly, that patentably characterize the present invention. (Col. 4, ll. 51-56).

On the other hand, Tanzer, et al. describes a diaper 10 that includes a topsheet 28 (preferably liquid permeable) and a backsheet 30 (preferably substantially liquid impermeable). In addition, an absorbent structure 32 is positioned between the topsheet 28 and backsheet 30. The absorbent structure 32 includes a retention portion 48, which is formed from an absorbent laminate 112 and a distribution layer 120. It is this absorbent laminate 112 that may contain the pocket regions 108 (See also, Figs. 5-7).

Thus, unlike Bjornberg, et al., the construction of Tanzer, et al. is one in which the topsheet plays no role in forming the pockets and in which an absorbent structure is disposed between the backsheet and the topsheet. Accordingly, in view of the particular emphasis placed on pad construction by Bjornberg, et al., one of ordinary skill in the art would simply not have been motivated to modify Bjornberg, et al. with Tanzer, et al. in the manner suggested in the Office Action.

In the Office Action, independent claims 1, 16, and 23 were also rejected under 35 U.S.C. §103(a) in view of U.S. Patent No. 5,938,650 to Baer, et al. Baer, et al. is directed to an absorbent core for absorbing liquids. The absorbent core consists essentially of a pair of flat outer thin sheets 10 and 12, and a quantity of superabsorbent polymer particles 14. (Fig. 1). The dry form of the absorbent core is shown in Fig. 2. Additional bonding patterns are shown in Figs. 5-7. As indicated, a thin, patterned partial flat laminate is provided that has a plurality of flat unbonded zones 30 or individual pockets connected together by a plurality of intersecting indented thermal bond lines 32. At the bond lines 32, some of the fibers of the adjacent fabric faces are at least partially fused together by heat and pressure. The fabric is not completely fused along these lines, although the bond is permanent and will not delaminate during initial swelling of the pockets.

As correctly noted by the Examiner, however, Baer, et al. fails to teach several aspects of the present claims. For instance, nowhere does Baer, et al. disclose pockets having an approximate length to width ratio of greater than about 2. Nevertheless, in the Office Action, it was stated that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the laminate of Baer, et al. to reflect a pocket size consistent with the claimed range as a result of routine experimentation to discover an optimal or workable pocket size. However, before a certain range can be determined to be obvious from the result of routine experimentation, the particular range must first be recognized as result-effective. See e.g., MPEP §2144.05 IIB. In this instance, Baer, et al. completely fails to recognize that such a length to width ratio would have the desired affect on delamination. In fact, the only mention of size in Baer, et al.

relates to the thickness of the laminate. Baer, et al. simply fails to recognize the importance of the length to width ratio in facilitating delamination of the pockets at a controlled rate and in a certain direction (e.g., width direction). As such, Applicants respectfully submit that the claimed length to width ratio would not have been obvious as a result of routine experimentation.

Applicants emphasize that the teachings of reference(s) must be viewed in their entirety, i.e., as a whole, to sustain a *prima facie* case of obviousness under 35 U.S.C. §103(a). In addition, the differences between a particular claim and the cited reference(s) cannot be viewed in a vacuum. Instead, the entire claimed invention must be considered as a whole. Applicants respectfully submit that, when properly viewed as a whole, there is simply no motivation to modify the cited reference(s) in an attempt to render obvious the claims 1, 16, and 23.

In addition, the above-cited references were also cited alone and/or in various combinations to reject dependent claims 2-15, 17-22, and 24-30. Applicants respectfully submit, however, that at least for the reasons indicated above relating to corresponding independent claims 1, 16, and 23, claims 2-15, 17-22, and 24-30 patentably define over the references cited. However, Applicants also note that the patentability of dependent claims 2-15, 17-22, and 24-30 does not necessarily hinge on the patentability of independent claims 1, 16, and 23. In particular, some or all of these claims may possess features that are independently patentable, regardless of the patentability of claims 1, 16, and 23.

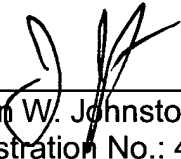
As such, for at least the reasons set forth above, Applicants respectfully submit that the present claims patentably define over all of the prior art of record. It is believed

that the present application is in complete condition for allowance and favorable action, therefore, is respectfully requested. Examiner Berfumo is invited and encouraged to telephone the undersigned, however, should any issues remain after consideration of this response.

Please charge any additional fees required by this Amendment to Deposit Account No. 04-1403.

Respectfully submitted,

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